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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,654	12/26/2001	Scott R. Swix	BELL-0163/01330	1792
38952	7590	03/24/2004	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE - 46TH FLOOR PHILADELPHIA, PA 19103			BUI, KIEU OANH T	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/034,654

Applicant(s)

SWIX ET AL.

Examiner

KIEU-OANH T BUI

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-41.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: the claim languages of claims 1, 13, 25, and 36 do not appear to be in the better condition for the allowance. Please see the Examiner argument attached..

## DETAILED ACTION

### *Response to After Final Arguments*

1. Applicant's arguments filed on 01/26/04 have been fully considered but they are not persuasive.

Applicants basically argue that Hendricks does not teach or suggest a technique of “identifying at the viewing device advertising content corresponding to the characteristics of the viewer, and inserting at the viewing device into the broadcast content the advertising content matching the characteristics of the viewer” as cited in claims 1, 13, and 25. After carefully studied the arguments versus Hendricks’ reference, the Examiner respectfully traverses the Applicants’ arguments and would like to invite the Applicants to take a closer look at Hendricks once more time. Although Applicants were correct by pointing out that the local inserter of Hendricks (Fig. 6A, 246) is within a headend, not at a local viewing device; however, Hendricks does teach that the insertion of the advertising content corresponding to the characteristics of the viewer can also be performed at the set top terminal. Here are the reasons on how Hendricks does it.

First, Hendricks teaches that the set top terminal includes a memory (-ies) which stores other information besides individual compressed programs, control signals and menus such as texts, news or other relevant information (col. 12/lines 1-65). Then the other relevant information including the user profile and packages of advertisements that is most interest to the user is stored in the set top terminal (col. 30/lines 14-27 & col. 32/lines 4-11). Please note that the user profile is done at numerous techniques, not just the only polling technique by the headend system (as suggested by the Applicants in the arguments). Based on this user profile,

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the advertisement targeting routine is performed for each user with packages of advertisements that is most interest to the user forwarded to the user –meaning, the set top terminal (col. 32/lines 4-11), but the most importantly, the routine for an algorithm to select an appropriate an advertising content corresponding to the characteristics of the user is NOT only performed by the network controller 214 BUT also by the set top terminal 220 itself (emphasis added), wherein the display of adverting contents are depending on set top groupings, program category, and set top ID and by matching the targeted advertisement (see col. 36/lines 12-52). Understanding this procedure, one of ordinary skill in the art can easily realize Hendricks discloses the steps of “identifying at the viewing device advertising content corresponding to the characteristics of the viewer and the insertion of advertising content matching the characteristics of the viewer” are also performed at the viewing device, or the set top terminal, in addition to the local inserter at the headend.

Therefore, the Examiner disagrees with the Applicants’ arguments and stands with the disclosure and teaching of Hendricks, Hylton, and Flickinger as disclosed in the previous Final Office action and as discussed in a close-up look of Hendricks in this argument.

### ***Conclusion***

**2. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to Crystal Park R.P. 2727 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).*

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Krista Bui  
Art Unit 2611  
March 10, 2004



**VIVEK SRIVASTAVA**  
**PRIMARY EXAMINER**